No. 582

In the Supreme Court of the United States

OCTOBER TERM, 1939

THE PEOPLE OF PUERTO RICO, PETITIONER

v.

RUBERT HERMANOS, INC.

ON A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR THE UNITED STATES, AMICUS CURIAE

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OPINIONS BELOW

The opinion of the Circuit Court of Appeals (R. 315–329) and the dissenting opinion of Judge Peters (R. 330–332) are reported in 106 F. (2d) 754. The opinion of the Supreme Court of Puerto Rico (R. 285–304) is reported in 53 P. R. 779, Spanish edition. The English edition has not yet appeared.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on September 27, 1939 (R. 333). The petition for certiorari was filed December 11, 1939,

and was granted January 29, 1940. The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether Acts Nos. 33 and 47, Laws of Puerto Rico, Special Session, 1935, pp. 418, 530–536 should be construed to confer jurisdiction on the Insular Supreme Courts in cases of violation of local laws alone.

2. Whether the complaint states a cause of action within the Insular Supreme Court's jurisdiction under Act No. 47 of proceedings instituted for violation of any Puerto Rican statute.

3. Whether Acts Nos. 33 and 47, construed to provide a means of enforcement of Section 3 of the Joint Resolution of May 1, 1900, 31 Stat. 715, 716, 48 U. S. C. Sec. 752, are invalid, the former *in toto* and the latter in part, as attempting to amend or enforce an Act of Congress.

STATUTES INVOLVED

The pertinent portions of the applicable statutes are set out in full in the Appendix to the brief. They may be summarized as follows:

Joint Resolution No. 23, approved May 1, 1900, 31 Stat. 715, in effect amended the former Organic Act of Puerto Rico, the Foraker Act of April 12, 1900, c. 191, 31 Stat. 77. Section 3 of the Joint Resolution, 48 U. S. C., Sec. 752, provides that "every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to

the ownership and control of not to exceed five hundred acres of land." This provision was specifically continued in effect by Section 39 of the present Organic Act of Puerto Rico, the Jones Act of March 2, 1917, c. 145, 39 Stat. 951, 964.

The Puerto Rico private corporation law, Article I, Section 3, paragraph 4 (Code of Commerce (1932), p. 327), provides "That the power of any agricultural corporation organized under this Act to hold real estate shall be subject to the prohibition contained in section three of the joint resolution of the Congress of the United States, of May first, nineteen hundred." This provision was first enacted in this form in Act No. 30, approved March 9, 1911; Pars. 407 *et seq.*, Comp. of Rev. Stats. and Codes of Puerto Rico, 1911, pp. 89–90.

The "Act Establishing Quo Warranto Proceedings," approved March 1, 1902 (Rev. Stats. and Codes of Porto Rico, 1902, Pars. 779–787, pp. 282–284; Comp. of Rev. Stats. and Codes of 1911, Pars. 1319–1327, pp. 268–269), provides that if any corporation does or omits any act which amounts to a forfeiture of its corporate rights, or exercises rights not conferred by law, the Attorney General may proceed against the corporation by *quo warranto* in the appropriate district court.

Act No. 33, approved July 22, 1935 (Laws of Puerto Rico, Special Session, 1935, p. 418) provides:

> Section 1. There is hereby conferred upon the Supreme Court of Puerto Rico exclusive

original jurisdiction to take cognizance of all Quo Warranto proceedings that the Government of Puerto Rico may hereafter institute for violations of the provisions of Section 752, Title 48, United States Code, and for that purpose it is provided that the violation of said provisions shall constitute sufficient cause to institute a proceeding of the nature of Quo Warranto.

Act No. 47, approved August 7, 1935 (Laws of Puerto Rico, Special Session, 1935, pp. 530–532), provides:

> Section 2. In case * * * any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General * * * may file before any district court of Puerto Rico a petition for an information in the nature of Quo Warranto in the name of the People of Puerto Rico; or whenever any corporation, * * * exercises rights, performs acts, or makes contracts in violation of the express provisions of the Organic Act of Puerto Rico or of any of its statutes, the Attorney General * * * may file before the Supreme Court of Puerto Rico a petition for an information in the nature of Quo Warranto in the name of the People of Puerto Rico; and if from the allegations such court shall be satisfied that there is probable ground for the proceeding, the court may grant the petition and order the information accordingly. * * *

The portion of this section preceding the first semicolon was derived from Rev. Stats. and Codes of Porto Rico (1902), Par. 780, p. 282. The succeeding portion was new.

STATEMENT

This action was initiated in the Supreme Court of Puerto Rico by a motion by the Attorney General of Puerto Rico for leave to file a complaint of *quo warranto* against the respondent (R. 1). Leave to file the complaint was granted (R. 35).

The amended complaint alleges (R. 44–47) that respondent was organized under the laws of Puerto Rico in 1927, that its articles of incorporation (set out at R. 5–14) provide "that the right of the corporation to own and control land in the Island of Puerto Rico shall be restricted to five hundred acres only, and subject to the restriction set up in Section 3 of the Joint Resolution of May 1, 1900, approved by the Congress of the United States of America" (R. 8); that notwithstanding this restriction and in violation of the Joint Resolution respondent owns and controls some 12,188 acres of farming land; that this holding and control is contrary to the public policy of Puerto Rico as first enunciated by the Joint Resolution of May 1, 1900, and since reiterated by Acts Nos. 33 and 47 of the Second Special Session of the Puerto Rican legislature of 1935. The complaint prays the Court to adjudge respondent to have forfeited its franchise, to order its dissolution, and to impose on it the proper fine (R. 47).

The respondent filed demurrers (R. 51–59) in which it contended, among other things, that the court was without jurisdiction because the proceeding was brought with the object of charging respondents with a violation of a law of the United States, that is, the Joint Resolution of May 1, 1900, and that jurisdiction, if any, of violations of that law was in the federal courts (R. 51); that Act No. 33 of July 22, 1935, and Act No. 47 of August 7, 1935, are void as attempts to amend the Joint Resolution by conferring jurisdiction upon the Supreme Court of Puerto Rico to punish violations thereof (R. 52–53); and that the complaint is ambiguous, unintelligible, and uncertain (R. 58).

The court overruled the demurrers for reasons stated in its opinion in a similar case decided at the same time (R. 81–82). In that opinion, *People of Puerto Rico* v. *Fajardo Sugar Co.*, 51 P. R. 876 (Spanish ed.; opinion not yet reported in English but set out at R. 68–81) the court discussed at length the question of the sufficiency of the complaint, and upheld the validity of Acts No. 33 of July 22, 1935, and No. 47 of August 7, 1935, for reasons stated in its earlier opinion in the same case, also entitled *People of Puerto Rico* v. *Fajardo Sugar Co.*, 50 P. R. 163 (Spanish ed.). The opinion last referred to is set out in the Appendix to the respondent's brief in opposition in this Court, at pp. 19–37.

The respondent then filed an answer admitting that it owns and controls the lands alleged in the

complaint (R. 92), but setting up various defenses. At the trial petitioner introduced documentary evidence designed to show the necessity and justification for the 500 acre limitation (R. 130–284). Respondent introduced no evidence.

The Supreme Court of Puerto Rico entered judgment against respondent (R. 305–306). It found respondent guilty of violating the provisions of the Joint Resolution of May 1, 1900, and its own articles of incorporation by which it was restricted to the ownership and control of land not in excess of 500 acres (R. 305). It ordered the forfeiture and cancellation of the respondent's license and the dissolution and winding up of its affairs, and that respondent pay costs, including $2,000 as attorneys' fees, and a fine of $3,000 (R. 305).

The Circuit Court of Appeals reversed the judgment of the Supreme Court of Puerto Rico (R. 333). It held that Acts Nos. 33 and 47 are invalid in that they amend and enlarge the scope of the Joint Resolution of May 1, 1900, and in that they confer jurisdiction upon the Supreme Court of Puerto Rico to impose penalties for violations of that Resolution; and that even if the provisions of Act No. 47 which authorize *quo warranto* for violation of Puerto Rican statutes are separable from the provision authorizing *quo warranto* for violation of the Resolution, that violation of the articles of incorporation is not within the act and that the complaint did not allege a violation of a

Puerto Rican statute with sufficient definiteness to constitute a good charge (R. 315–329).

Judge Peters, dissenting, agreed that Act No. 33 was invalid but thought that Act No. 47 could be interpreted as imposing only a penalty for violation of corporate restrictions imposed by the Puerto Rican legislature pursuant to the mandate of the Joint Resolution, and that in any event it had separable provisions penalizing violations of local law which were sufficient to support the judgment of the Supreme Court (R. 330–332). Whether the complaint was sufficiently definite he thought to be a local question as to which the Puerto Rican court should not be reversed (R. 332).

STATEMENT OF INTEREST OF THE UNITED STATES

This proceeding was brought to effectuate the policy embodied in both federal and Puerto Rican legislation, that a corporation authorized to engage in agriculture shall not own or control more than 500 acres of land in Puerto Rico. It is as much to the interest of the United States that this prohibi-

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[1] The court also said that Puerto Rico had condoned respondent's violations of the 500-acre restriction and that it therefore should not be permitted to forfeit respondent's land (R. 328). However, Puerto Rico had neither sought nor received a decree of forfeiture of respondent's land, and the judgment of the Circuit Court of Appeals recites that it is "without prejudice to future proceedings under valid statutes" or in the federal courts based on a violation of the Joint Resolution (R. 333).

tion be enforced by the insular authorities as that it be enforced by federal authorities; indeed, the peculiarly local nature of the problem with which the 500-acre restriction deals especially qualifies the insular authorities for its enforcement.

SUMMARY OF THE ARGUMENT

The Joint Resolution of May 1900 directs that the amount of land which domestic Puerto Rican corporations authorized to engage in agriculture may own and control be restricted by their charter to 500 acres, a prohibition which was expressly continued in effect by the Organic Act of 1917. Act No. 30, approved March 9, 1911, adopted by reference the provisions of the Joint Resolution as a part of the general corporation law of Puerto Rico and the same provision was included by reference in the respondent's charter issued under the local law.

By Act of March 1, 1902, the insular district courts were given jurisdiction of *quo warranto* proceedings against any corporation which "does or omits any act" amounting "to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law," a jurisdiction broad enough in terms to extend to cases of violation of a local statute or the Joint Resolution. In 1935, the insular Supreme Court was given jurisdiction by Acts Nos. 33 and 47 of proceedings instituted for the violation of the "provisions" of (a) the Joint Resolution and Organic Act and (b) any of Puerto Rico's statutes.

I

The "provisions" of the Joint Resolution, of which Acts Nos. 33 and 47 speak, were incorporated by reference in the Puerto Rican corporation law of 1911, and the respondent's charter granted pursuant thereto. If necessary to save their validity, therefore, the "provisions" of the Joint Resolution to which Acts Nos. 33 and 47 refer, should be construed to mean the "provisions" of the local corporation law of 1911 or the charters of corporations organized thereunder.

II

In any event, the provision of Act No. 47, conferring original jurisdiction on the insular Supreme Court in proceedings instituted for violation of "any of its [Puerto Rico] statutes," is separable from the remainder of the statute. The pleadings and the proof are sufficient to bring the case within the jurisdiction of the insular Supreme Court even as so limited.

III

These questions of local law were not passed upon by the insular court and it is unnecessary for this Court to decide them independently in order to sustain the validity of Acts Nos. 33 and 47 and uphold the judgment of the insular court. For the jurisdictional statutes are valid enactments if construed to provide a means of enforcement in the

insular Supreme Court of the prohibition of the Joint Resolution. Puerto Rico was authorized to reserve the right of revocation of respondent's charter for violation of the Resolution either under its power to enact all legislation "not locally inapplicable" or pursuant to the implied authority conferred by the Joint Resolution itself.

1. The suggestion in the court below that Acts Nos. 33 and 47 unlawfully "amend" the federal law by converting a limitation on the powers of Puerto Rico into a limitation on the powers of domestic corporations is without merit. Any grant of corporate authority purporting to confer power to own and hold in excess of 500 acres would obviously be invalid and would afford no justification for the acts complained of in the *quo warranto* proceedings. The Joint Resolution, in purpose and effect, limits the power of Puerto Rican corporations.

2. Every corporate franchise is subject to the implied right of the grantor to revoke for violation of the conditions of the grant. Puerto Rico, therefore, impliedly reserved the power of revocation for violation of the prohibition imposed by the Joint Resolution unless it was without power to do so. There is no merit in the contention that Joint Resolution imposed no penalty for violation and that the reservation of a power to annul by Puerto Rico unlawfully alters or amends an Act of Congress. In failing to provide a forfeiture for violation of the Joint Resolution, Congress could not

have intended that there should be no penalty whatever. The 500-acre restriction is probably the most important condition of respondent's charter and it cannot be assumed that Congress intended a lesser consequence to attach for violation of that condition than for violation of any other. The more reasonable inference from the silence of the Joint Resolution is that Congress concluded that the power to revoke for violation of the Joint Resolution could and would be reserved by Puerto Rico pursuant to its authority to enact all legislation "not locally inapplicable."

3. Congress, however, did not fail to provide for forfeiture or violation of the Joint Resolution. The Joint Resolution itself impliedly authorized Puerto Rico to reserve a power of revocation for its violation. The implied power to revoke if the charter and condition had both been derived from one governmental authority was not lost merely because the charter was granted by Puerto Rico while the 500-acre restriction was imposed by Congress. The laws of the territory and the United States both emanate from the same sovereign. In restricting the power of corporations to own and control more than 500 acres or directing Puerto Rico to do so, the Joint Resolution itself reserved a power of revocation for violation as a condition of the charter or authorized Puerto Rico to do so. In either view, the power was intended to be exercised by Puerto Rico which granted the charter.

As the matter rests in implication, the question must be decided with reference to pertinent considerations of policy and the indications from the relevant legislation of Congress. The view that Congress intended the power of revocation to be exercised by Puerto Rico is supported by the weighty consideration that knowledge of local conditions is required for effective enforcement. The failure of Congress to reserve an express power to annul in the Joint Resolution is of particular significance in view of the express reservation of the right of forfeiture in Section 32 of the Foraker Act with respect to public and quasi-public franchises and in the Act of March 3, 1887, limiting the amount of land which corporations organized in the Territories may hold generally. The fact that Congress imposed the restriction does not negative an intention to entrust enforcement to the local government since the controls reserved over the territorial government in the Foraker Act and Organic Act of 1917 are adequate to insure local action in conformity with the intention of the federal government.

There is no principle of law which negatives an intention of Congress to authorize the territorial government to reserve the power of revocation for local enforcement. It is true that offenses against one sovereign are ordinarily tried by its own courts in proceedings instituted by its own officers. But Puerto Rico acts under the authority of the United

States, and its law-enforcing agencies are all under the control of the United States, a control which is sufficient to insure adequate enforcement of the Joint Resolution. *Puerto Rico* v. *Shell Co.*, 302 U. S. 253, is not opposed. This Court assumed in that case, it is true, that Puerto Rico could not enforce the Sherman Act but only its own local anti-trust law. But the Sherman Act embodies a general policy of the federal government and is obviously a law of the United States within the meaning of Section 256 of the Judicial Code, and the express direction to the district attorneys to enforce the statute negatived any intention to permit any other authority to institute proceedings. In this case, Congress has been silent as to the method of enforcement and Section 256 has no application, whether the Joint Resolution be regarded as a limitation of the legislative powers of Puerto Rico or the powers of corporations directly.

The distinction between local enforcement of a federal statute and an identical local statute, it may be observed, is insufficient to support an inference that Congress intended to preserve it in this case. The Joint Resolution deals with a subject of peculiar concern to Puerto Rico, enforcement of an identical local statue would bar federal enforcement of the same prohibition, and possible failure of the local officials to enforce the Joint Resolution can be corrected by the controls reserved to the federal government over such officials in the organic act.

ARGUMENT

I

ACTS NOS. 33 AND 47, IF NECESSARY TO SUSTAIN THEIR VALIDITY, SHOULD BE CONSTRUED TO CONFER JURISDICTION ON THE INSULAR SUPREME COURT IN CASES OF VIOLATION OF LOCAL LAWS

Acts Nos. 33 and 47, should, if necessary to save their validity, be viewed as providing for the enforcement of local measures incorporating the 500-acre restriction rather than for enforcement of the Joint Resolution. The "provisions" of the Joint Resolution, of which Acts Nos. 33 and 47 speak, were incorporated by reference in the Puerto Rican corporation law of 1911, and in the respondent's charter granted pursuant thereto. If necessary to save the validity of Acts Nos. 33 and 47 the "provisions" of the Joint Resolution to which they refer, are therefore, to be construed to mean those "provisions" as adopted in the local corporation law of 1911 or in the charters of corporations organized thereunder.

1. Congress by the Joint Resolution of May 1, 1900, provided that "every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed 500 acres of land," a provision expressly continued in effect by the Organic Act of 1917 (March 2, 1917, c. 145, Sec. 39, 39 Stat. 964, 48 U. S. C., Sec. 752). Pursuant to this mandate

(*Puerto Rico* v. *Fajardo Sugar Co.*, 51 P. R. 876; R. 68, 74), the Puerto Rican legislature in 1902 provided in its general corporation law that "any corporation organized under this Code to hold real estate shall be subject to the prohibition contained in Section three of the joint resolution of the Congress of the United States of May first, nineteen hundred" (Rev. Stat. and Codes of 1902, Civil Code, Porto Rico, Title II, Section 32 (4)). In 1911 this provision was limited to agricultural corporations (Act No. 30 of March 9, 1911, Comp. of Rev. Stats. and Codes of Puerto Rico, 1911, pp. 89–90). The respondent's charter in conformity with the law under which the corporation was organized, likewise provides that "the right of the corporation to own and control land in the Island of Puerto Rico shall be restricted to 500 acres only, and subject to the restrictions set up in Section 3 of the Joint Resolution of May 1, 1900, approved by the Congress of the United States of America" (R. 8).

The provisions of the Joint Resolution were thus adopted by reference as the local law of Puerto Rico. This method of legislation, which the Congress has itself adopted on occasion (see *Puerto Rico* v. *Shell Co.*, 302 U. S. 253, 265–266) was unobjectionable. There is no merit in the suggestion of the respondent that Section 34 of the Organic Act (March 2, 1917, c. 145, Sec. 34, 39 Stat. 951, 962, 48 U. S. C. Sec. 835) forbids the incorporation

by reference of the provisions of the Joint Resolution. Apart from the fact that the Organic Act forbids adoption by reference of the prior law of *Puerto Rico,* Section 34 was not enacted until 1917, and is obviously prospective in operation.[2] Moreover, the Foraker Act (April 12, 1900, 31 Stat. 77, 83, c. 191, Sec. 31) reserved to Congress the power to annul all Puerto Rican statutes, and required that all insular laws be reported to it. Act No. 30 of March 9, 1911, was reported to Congress on April 17, 1911 (Sen. Doc. No. 11, 62d Cong., 1st Sess.), and the failure of Congress to annul the corporation laws of 1911 is itself persuasive evidence of its validity. *Clinton* v. *Englebrecht,* 13 Wall. 434, 446; *Tiaco* v. *Forbes,* 228 U. S. 549, 553.

2. The language of Acts Nos. 33 and 47 conferring jurisdiction in cases of violation of the "provisions" of the Joint Resolution may thus be construed to describe the local corporation law of 1911 which incorporated those provisions by reference. It is unnecessary to inquire whether under Section 34 of the Organic Act Puerto Rico could have adopted by reference the prohibition of the Joint Resolution in enacting Acts Nos. 33 and 47 in 1935. Those statutes are in no sense part of the corporation law of Puerto Rico and it is that law

[2] Section 34, provides: "No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as revived, amended, extended, or conferred, shall be reenacted and published at length."

which the respondents have violated. Acts Nos. 33 and 47 do not adopt the corporation law or the provisions of the Joint Resolution, but merely define the scope of the insular Supreme Court's jurisdiction.[3]

3. Acts Nos. 33 and 47 may also be construed as conferring jurisdiction on the insular Supreme Court in cases of violation of corporate charters which include by reference the prohibition contained in the "provisions" of the Joint Resolution. This, in substance, was the view expressed as respects Act No. 47 in the dissenting opinion of Judge Peters (R. 330, 331). In this connection, it may be observed, there is no basis whatever for a suggestion that Puerto Rico is without power to incorporate by reference a prohibition in a corporate charter.

II

THE COMPLAINT STATES A CAUSE OF ACTION WITHIN THE INSULAR SUPREME COURT'S JURISDICTION UNDER ACT NO. 47 OF PROCEEDINGS INSTITUTED FOR VIOLATION OF ANY PUERTO RICAN STATUTE

In any event, the provision of Act No. 47 conferring original jurisdiction on the insular Supreme Court in proceedings instituted for violation of "any of its [Puerto Rico's] statutes" is

[3] There can be no contention that Act No. 33 is invalid because in effect, but not in terms, it modifies the Act of March 1, 1902, without republishing that statute in full. See note 67 A. L. R. 564, 572–573.

separable from the remainder of the statute, and the pleadings and the proof are sufficient to bring the case within the jurisdiction of the insular Supreme Court even as so limited.

1. The dissenting Judge in the court below was of the opinion that this provision was separable from the remainder of Act No. 47 and the majority assumed this to be true for the purpose of decision. That this view is sound seems hardly open to question. The provisions respecting violations of the local statutes is in no way dependent on the remainder of the Act for its effectiveness. Cf. *Champlin Refining Co.* v. *Comm.*, 286 U. S. 210, 234; *Texoma Natural Gas Co.* v. *R. R. Comm.*, 59 F. (2d) 750, 754 (D. C. Texas). Moreover, Act No. 47 did not create a new remedy. Since 1902, the insular district courts have enjoyed jurisdiction over *quo warranto* proceedings involving "exercise of rights not conferred by law," a jurisdiction broad enough to include violations of a local statute. In enacting Act No. 47 in 1935 the Puerto Rican legislature evidently concluded that remedies for violation of local statutes could more effectively be enforced by proceedings in the insular Supreme Court (cf. *Hallowell* v. *Commons*, 239 U. S. 506, 508), and there is no reason to believe that the Puerto Rican legislature would have deemed the Supreme Court less effective in the enforcement of local statutes if jurisdiction could not also have been conferred in cases involving violations of the Organic Act.

2. The majority of the court below, however, concluded that the complaint "does not, * * * amount to an allegation that Act 30, laws of 1911, or any other local law of Puerto Rico had been violated" (R. 327). The "real issue" in this case, the majority declared, "is not whether a valid complaint could have been made under the Act No. 47, but whether one was made * * *" (R. 329). The decision below thus turns, as Judge Peters observed, "on what amounts to a question of pleading * * *" (R. 332).

The point of pleading is not well taken. The amended complaint alleged that the respondent's articles of incorporation restricted its right to hold and control land to 500 acres only (R. 44), and that the respondent, notwithstanding this restriction, owned and controlled some 12,188 acres (R. 45). These were the only material facts and the law of Puerto Rico did not require petitioner to allege anything in addition to the ultimate facts.[1] *Puerto Rico* v. *Fajardo Sugar Co.*, 51 P. R. 876 (R. 68, 69); Code of Civil Procedure of Puerto Rico (1933 ed.), Sec. 103 p. 41.

[1] A *quo warranto* proceeding for forfeiture of a corporate charter and the imposition of a penalty is a civil proceeding of common law origin and is so regarded in Puerto Rico, as in most of the States of the Union. *Santiago* v. *Feuille, Attorney General*, 16 P. R. R. 408, 412; *People of Puerto Rico* v. *Santiago*, 38 P. R. R. 627, 630; *Ames* v. *Kansas*, 111 U. S. 449, 459; High, *Extraordinary Legal Remedies*, Chap. XIII.

The majority of the court below concluded that a different rule should apply for the reason that "the Supreme Court of Puerto Rico is a statutory court and its jurisdiction is defined by statute. Unless a case comes strictly within the statute defining its jurisdiction, it cannot proceed" (R. 328).

The question whether a violation of the local statute must be expressly pleaded is obviously one of local practice. The court below cited no case and we have found none which even remotely suggests that a violation of the local statute must be pleaded in Puerto Rico to state a case within the jurisdiction of the insular Supreme Court. In fact, in *Puerto Rico* v. *Fajardo Sugar Co.*, 51 P. R. 876; in which the jurisdiction of the insular Supreme Court under Acts Nos. 33 and 47 was challenged on grounds substantially identical to those urged in this case, the insular Supreme Court declared that "the local procedural rule" required "allegations to contain nothing but a statement of the ultimate facts on which plaintiff's right is based * * *" (R. 68, 69). In other jurisdictions it has been held that the authority of a court of limited jurisdiction is sufficiently shown by allegations of the ultimate facts without pleading the statute on which the right to recover depends. *Kolkin* v. *Gotham Sportswear, Inc.*, 10 F. Supp. 682 (S. D., N. Y.); *Dougherty* v. *Michigan Bell Telephone Co.*, 235 Mich. 416, 209 N. W. 200; cf. *United States* v. *Clarke*, 8 Pet. 436; *Southern Cal-*

fornia Edison Co. v. *Industrial Accident Comm.*, 78 Cal. App. 584, 248 Pac. 938.

Whatever may be the rule in the federal courts, where jurisdiction is limited by the Constitution, there is no reason in principle for the application to Puerto Rico of the supposed doctrine announced by the majority below. The requirement that an affirmative showing of jurisdiction in cases in inferior courts was derived at common law from the fact that no records were kept of their proceedings (cf. *Hahn* v. *Kelly*, 34 Cal. 391, 409; *Schwartz, Inc.*, v. *Burnett Pharmacy*, 112 Cal. App. 781, 787). The Supreme Court of Puerto Rico is a court of record and no useful purpose could be served on direct or collateral review by pleadings setting forth conclusions of law respecting statutes of which judicial notice may be taken.

The respondent contends that neither in the complaint nor in the proceedings before the insular Supreme Court did the petitioner proceed upon the theory that respondent had violated a local statute. Assuming this to be true, the judgment of the insular court may be sustained upon any ground supported by the facts, whether advanced below or not. The respondent is not prejudiced; it has not been denied any defense that would have been available to it if the jurisdiction of the court had been invoked on the ground of violation of the local statute. *Chicago, Rock Island & Pac. Ry. Co.* v. *Wright*, 239 U. S. 548; *Helvering* v. *Rankin*, 295

U. S. 123, 132–133; cf. *Lynch* v. *United States*, 292 U. S. 571, 587–588; *Zellerbach Paper Co.* v. *Helvering*, 293 U. S. 172, 182.

III

ACTS NOS. 33 AND 47, CONSTRUED TO PROVIDE A MEANS OF ENFORCEMENT OF THE JOINT RESOLUTION, ARE VALID

1. As suggested above, the judgment of the insular court can be sustained on the ground that the jurisdictional acts confer jurisdiction only for violations of the local corporation law of 1911 and that, in any event, the information states a cause of action for violation of the local statute within the jurisdiction expressly conferred by Act No. 47. The Government respectfully suggests, however, that neither ground should be adopted by this Court unless essential to support the judgment of the insular court.

a. The question whether Puerto Rico may provide a remedy for violations of the Organic Act and confer jurisdiction on the insular courts for its enforcement was raised by the complaint, was passed upon by the insular court and the Circuit Court of Appeals and can appropriately be decided by this Court in the present proceeding. If this question, which is especially appropriate for the decision of this Court, should not be decided, it will be necessary for this Court to decide for itself questions of statutory construction and local prac-

tice within the peculiar competence of the insular courts. *Bonet* v. *The Texas Co. (P. R.) Inc.* decided January 2, 1940, No. 132, October Term, 1939. The insular Supreme Court, it should be emphasized, did not pass upon any of the local questions involved. Moreover, a decision on one of the narrow grounds suggested would either materially restrict the intended scope of the 500-acre restriction or delay its enforcement or both.

b. A decision that Acts Nos. 33 and 47 speak only of violations of local law would, of course, prevent the exercise of jurisdiction where the acts complained of are expressly prohibited by the Joint Resolution but not by any local law. Such a restriction might well deprive the Organic Act of much of its intended scope and effect. The Joint Resolution extends to "any corporation authorized to engage in agriculture," while the prohibition in the Puerto Rico corporation law is limited to agricultural corporations. The respondent, while admitting that it was "authorized to engage in agriculture," alleged in its answer that its primary business was the manufacture of sugar, and that its "agricultural" activities were only incidental (R. 90–92). Whether such a corporation is an "agricultural" corporation within the meaning of the local law is a doubtful question and has not been decided by the insular courts. Moreover, the local law does not expressly prohibit foreign corporations from owning or controlling more than

500 acres of land. And the object of the Joint Resolutions will be defeated if its prohibitions cannot be enforced against such corporations.

c. A decision on the sufficiency of the pleadings would leave open all other questions for future decision, but would result in additional delays in the enforcement of a policy which the Congress has deemed essential to the economic well-being of Puerto Rico. The jurisdictional acts of 1935 represent the first determined effort of the Territory of Puerto Rico to enforce the mandate prescribed by Congress in the Joint Resolution of 1900. The character of the legislation is such that enforcement must await an authoritative adjudication of its validity. The corporations affected may not be expected to acquiesce until all doubt of its legality has been removed. If the holding of the court below that Puerto Rico cannot directly enforce the prohibition contained in the Joint Resolution is not disapproved, enforcement of the 500-acre restriction in cases not covered by the local statutes must be suspended until the question is presented to this Court in another case. The insular Supreme Court would presumably hold Acts Nos. 33 and 47 invalid, where a violation of the provisions of the local law could not be shown, since if it failed to do so, the court below, if it followed its present decision, would reverse. The length of the delay which may result is suggested by the facts of this case. The present complaint

was filed on January 28, 1936. Even if the judgment of the insular court is affirmed, more than four years will have passed before the decree can be carried into effect.

In our view, therefore, the central question in this case is the power of Puerto Rico to provide for the enforcement of the Joint Resolution by prescribing a remedy for violations in the insular courts. The court below held Acts Nos. 33 and 47 invalid in so far as they purported to confer such jurisdiction upon the ground, first, that each of the jurisdictional acts "changes * * * the very nature of the law that it amends and operates upon" in that it "converts" a "limitation of the Joint Resolution * * * on the powers of the legislature * * * into a limitation on the powers of corporations" (R. 325) and, second, that even if the Joint Resolution limits the power of corporations to own and control land in excess of 500 acres, Puerto Rico cannot prescribe a penalty for violation and confer jurisdiction on its courts to enforce the remedy where Congress has failed to provide any such penalty (R. 322).

2. It seems reasonably clear that the Joint Resolution has the necessary effect of limiting the respondent's corporate powers. By this complaint, Puerto Rico has challenged the respondent's authority to own and control land in excess of 500 acres. The respondent's power can be derived only from the corporation laws under which it was or-

ganized, and any power which that law should purport to confer in excess of that permitted by the Joint Resolution would plainly be invalid and could afford no justification for the acts complained of. Such has long been the theory on which suits have been entertained to restrain illegal acts of government officials. *United States* v. *Lee*, 106 U. S. 196, 218–219; *Philadelphia Co.* v. *Stimson*, 223 U. S. 605, 619–620. There is no doubt that a purported grant of corporate powers which violates a provision of a state constitution affords no defense in a *quo warranto* proceeding. *People ex rel. Deneen* v. *People's Gas Light & Coke Co.*, 205 Ill. 482, 68 N. E. 950; *Attorney General ex rel. Mason* v. *Perkins*, 73 Mich. 303, 41 N. W. 426; *Kansas* v. *Lawrence Bridge Co.*, 22 Kans. 438, Field, *The Effect of an Unconstitutional Statute*, p. 19, n. 11; see id., ch. II.

There is no reason why limitation on the legislative powers of Puerto Rico should not similarly operate to restrict the powers of corporations created under its statute. As Attorney General Wickersham concluded with respect to a substantially identical provision in the organic act of the Philippine Islands: "This provision is not directory. It affects the very being of the corporation. * * *. The restrictions upon the ownership and control of lands in the Philippine Islands by corporations are absolutely determined by this legislation. It is beyond the power of the executive branches of the Governments * * * to authorize or permit corporations to own or hold lands in

, but cf. People v. Rensselaer and Saratoga Railroad Co., 15 Hand. (N.Y.) 113, 130–131.

excess of the amount so designated." 28 Op. A. G. 258, 260–261.

The limitation of the power of corporations is not solely a legal consequence of the limitation of Puerto Rico's legislative powers. That Congress expressly intended the Joint Resolution to limit the powers of corporations directly, appears from the face of the act itself. The same provision which requires that domestic corporations be restricted by their charter to ownership of 500 acres of land declares that "this provision shall be held to prevent any member of a corporation engaged in agriculture from being in anywise interested in any other corporation engaged in agriculture" and further that "corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable" (Act of May 1, 1900, No. 23, Sec. 3, 31 Stat. 715, 716). The plain meaning of these words is that the prohibition operates directly. It seems evident that Congress intended the 500-acre restriction on domestic corporations to have the same effect.

3. The respondent's charter was granted subject to the lawful condition that Puerto Rico could revoke the franchise if the respondent violated the prohibition of the Joint Resolution. As this Court observed in *Commission* v. *Havemeyer*, 296 U. S. 506, "Every such privilege is subject to termination for breach of condition, whether express or implied,

upon which the grant depends." Unless it was beyond its power to do so, therefore, it is reasonable to conclude that Puerto Rico impliedly reserved the right to terminate for breach of the condition presented by the Joint Resolution. The conclusion is not left to inference alone. In 1902, Puerto Rico conferred on the insular district courts power to decree a forfeiture of a corporate charter where any corporation "does or omits any act" amounting "to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law," an authority which by its terms is broad enough to extend to cases of violation of the Joint Resolution. Acts Nos. 33 and 47 merely transfer jurisdiction to the insular Supreme Court.

The respondent contends, and the court below held, however, that the Joint Resolution did not prescribe any consequence for its violation and that Puerto Rico cannot do so for the reason that it cannot alter or amend and hence cannot add to an Act of Congress. This position is untenable, even on the assumption that Joint Resolution did not expressly or impliedly provide any penalty for violation.

The failure of Congress to provide any penalty may evidence its determination either that there should be no penalty whatever, or that Puerto Rico had power to provide for termination under its authority to enact all legislation "not locally inap-

plicable." Cf. *Commission* v. *Havemeyer*, 296 U. S. at 516; *Puerto Rico* v. *Shell Co.*, 302 U. S. 253, 263; *Clinton* v. *Englebrecht*, 13 Wall. 343; *Hornbuckle* v. *Toombs*, 18 Wall. 648. The first alternative is plainly unacceptable. Puerto Rico may admittedly revoke corporate charters granted under its authority for violation of any conditions prescribed by the territorial government. The Congress could not have intended that a lesser consequence should attach for violation of the condition prescribed by the Joint Resolution. The Joint Resolution was passed in recognition of the fact that the agricultural land available in the territory was extremely limited and that in absence of a restriction on the amount of land which corporations could acquire, most of the land would pass into the hands of a few large corporations, leaving the mass of the local inhabitants in a condition of serfdom (R. 179–182). It is thus no exaggeration to say that the 500-acre restriction prescribed by the Joint Resolution is of more vital importance to the territory than any other condition of the corporate charters granted under its authority.

The asserted failure of Congress to provide a penalty can most reasonably be construed as a determination that the Joint Resolution could and should be enforced by the territorial government. In the *Havemeyer* case the public-service commission of Puerto Rico cancelled a franchise of a "quasi-public nature" granted by the Executive Council

of Puerto Rico in 1901. The Executive Council, created by Section 18 of the Foraker Act, was given exclusive power by that Act to grant franchises of a public or quasi-public nature (Act of April 12, 1900, c. 191, sec. 32, 31 Stat. 83–84), the power to annul or modify being reserved by the Congress. The Organic Act of 1917 transferred the authority to issue such franchises, together with the executive functions of the Council, to a public-service commission. Act of March 2, 1917, c. 145, Sec. 38, 39 Stat. 964, 48 U. S. C. Sec. 750. The legislature of Puerto Rico conferred on the commission power to annul or cancel franchises granted by the Executive Council for violation of the conditions of the franchise. The Congress at no time conferred the power of cancellation on the commission, the council, or any other insular authority. 296 U. S. 506, 516. This Court held that the action of the commission was an "assertion of the implied right to cancel for failure of holders [of franchises] to perform their undertakings" (*Id.* p. 517) and that the local legislation conferring authority to do so was "obviously not locally inapplicable" (*Id.* p. 516). In rejecting the contention that Congress, by reserving to itself the power to annul or modify franchises, intended thereby to withhold the power to annul from the insular authorities, this Court observed that "inference to the contrary is a more reasonable one and in harmony with the reasons

which underlie the reservation. Local authorities may ascertain facts and decide questions upon which depends appropriate exertion of the power much more conveniently than may the Congress" (296 U. S. at 515–516).

The decision was not rested on the ground that the executive council had an implied power to annul or that such authority was among the "executive functions" transferred to the commission. If the power of the commission had been derived from the Organic Act the local statute would have been unnecessary and the question of its validity would not have been decided. The *Havemeyer* case thus holds that the local legislature has power to authorize the cancellation of franchises for violation of conditions prescribed by an authority beyond its control.[5]

In the *Havemeyer* case, the question was whether the right of termination could be enforced by Puerto Rico or only by Congress. The inference that Congress intended the power to be exercised by the local government is an even more reasonable one in this case where the choice is between enforcement by Puerto Rico or, so respondents contend, no enforcement at all. And the fact that Congress did

[5] In this connection it should be observed that the Executive Council as originally established by the Foraker Act (Sec. 18) was composed of eleven members appointed by the President, only five of whom were required to be native Puerto Ricans. The terms and conditions of public and quasi-public franchises were thus deliberately placed beyond local control.

Cf. Attorney General v. Detroit Edison Co., 75 Fed. 65, 68-69; Detroit v. Detroit City Ry. Co., 56 Fed. 867 (C.C. E.D. Mich.), 60 Fed. 161 (per Taft, J.), reversed on other grounds, 64 Fed. 628 (C.C.A. 6th).

not leave the enactment of the 500-acre restriction to the discretion of the territorial legislature can hardly mean that Congress intended no one to enforce it. Indeed, even if Congress had reserved to itself power to annul, no inference would have arisen of an intention to withhold the power from Puerto Rico as the *Havemeyer* case holds.

4. Puerto Rico's power to enact all legislation "not locally applicable" thus includes the authority to provide for the forfeiture of respondent's charter for violation of the Joint Resolution, even if it be assumed, as respondent contends and the court below held, that the Joint Resolution did not prescribe or authorize such penalty. But this assumption is unfounded.

As previously observed, every corporate charter is subject to the right of termination for breach of its conditions. If the Congress had granted respondent a corporate charter restricting its power to own and control land in excess of 500 acres, the United States could certainly institute forfeiture proceedings for violation. Likewise if Puerto Rico had prescribed such a condition it could terminate the charter of its grantee for violation. All power to revoke for breach of this condition was not lost, however, merely because Puerto Rico granted the charter while the United States prescribed the condition. The territorial and federal laws are both "creations emanating from the same sovereignty" (*Puerto Rico* v. *Shell Co.*, 302 U. S. 253, 264). Congress must have intended that the

power to terminate for violation of the 500-acre restriction should be reserved as fully as though the charter and condition had both derived from the same source. In restricting the power of corporations to own and control more than 500 acres or directing Puerto Rico to do so, the Joint Resolution itself reserved a power of revocation for violation as an implied condition of the charter or authorized Puerto Rico to do so. In either view, the power was intended to be exercised by Puerto Rico which granted the charter.[6]

That Puerto Rico was intended to enjoy a power of revocation is in accord with precedent (cf. *Commission* v. *Havemeyer, supra*) and is supported by substantial considerations of policy. The Congress may well have concluded that the power could best be exercised by local officials familiar with local conditions. Cf. *Commission* v. *Havemeyer*, 296 U. S. at 515–516. Moreover, as the insular Supreme Court observed with respect to the local enforcement of prohibitions against combinations in restraint of trade, " 'instances might occur where' " offenses " 'would pass unnoticed by the federal officers, or where, for some reason or other, such officers might not display the same activity and

[6] Puerto Rico has also imposed a fine in addition to declaring a forfeiture of the charter. But the fine in this case, as *quo warranto* proceedings generally, is a normal incident of the principal relief of forfeiture. *Illinois ex rel. Hunt* v. *Illinois Central R. R. Co.*, 33 Fed. 721 (C. C. N. D. Ill.) (Per Harlan, J.). The validity of the fine is not a question of importance in this case.

interest that is to be expected from the local officials.'" See *Puerto Rico* v. *Shell Co.*, 302 U. S. at 262–263. The fact that Congress placed the 500-acre restriction in the Joint Resolution beyond the control of Puerto Rico does not negative an intention to entrust enforcement to the local government. Cf. *Commission* v. *Havemeyer*, 296 U. S. 506.

The silence of the Joint Resolution as to the method of enforcement is persuasive evidence that Puerto Rico was impliedly directed, or at least authorized, to reserve the power of revocation. A proviso of Section 32 of the Foraker Act conferred exclusive authority on the executive council to grant certain franchises, required that they be reported to Congress and expressly reserved to Congress the power to annul, but the proviso related only to franchises of a public or quasi-public nature and had no application to the grant of corporation charters generally. See 26 Op. A. G. 176.[1]

[1] While the language of the proviso in Section 32 with respect to the reporting of franchises and the reservation of the power to annul was somewhat ambiguous, apparently it was always considered inapplicable to the charters of corporations not authorized to engage in a public or quasi-public utility business and there is no record of the reporting of such charters to Congress. Section 38 of the Organic Act of 1917 (39 Stat. 964) leaves no doubt that this was the intention of Congress, and in express terms requires the reporting only of the public or quasi-public franchises granted by the public service commission. It should be observed that Section 39 of the Organic Act, which expressly preserves the 500-acre restriction, required a report as to the extent of the land-holdings of corporations, partnerships, or individuals, but did not reserve the power to annul corporate charters for

The significance of the failure to reserve to Congress a power to annul in the Joint Resolution is emphasized by the fact that the Resolution was passed on May 1, 1900, the effective date of the Foraker Act, and was adopted for the very purpose of correcting what were deemed the grave defects of the original organic act (R. 179–182). Some of the provisions of the Joint Resolution, moreover, related to the granting of public or quasi-public franchises under Section 32 of the Foraker Act. The attention of Congress was clearly drawn to the reservation in Congress of power to annul in that section. The failure to include any such provision in the Joint Resolution must be construed as a deliberate determination to place responsibility for enforcement of the 500-acre restriction in the hands of the local officials.

Where the Congress has restricted the right to acquire land pursuant to a national policy and intended enforcement by the Federal Government it has made its purpose clear. The Act of March 3, 1887, c. 240, Sec. 3, 24 Stat. 476, 477, forbids the acquisition of real estate by foreign corporations and aliens who have not declared an intention to become citizens and limits to 5,000 acres the amount of land which may be held in any of the Territories of the

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disclosed violations. Indeed, as the insular Supreme Court pointed out in *Puerto Rico* v. *Fajardo Sugar Co.*, 50 P. R. 163, a provision in Section 39 as originally introduced reserving the power to Congress to legislate further on this subject was stricken. See 54 Cong. Rec. 3006, 3994–3995, 64th Cong., 2d Sess.

United States by any corporation other than those organized for certain named purposes. Section 4 of the Act expressly provides that "all property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney General to enforce every such forfeiture by bill in equity or other proper process."

Viewing the Joint Resolution as a limitation of the power of the Puerto Rican legislature, as the respondent suggests and the court below held, Puerto Rico is not only clothed with the power but charged with the duty of enforcing a forfeiture for violation of the Resolution. In this view, the Congress sought to enforce the prohibition not by direct limitation on the powers of corporations enforcible by federal officers but through the agency of the local government. Puerto Rico was under a mandate from Congress to make this restriction a matter of local concern. It cannot be supposed that its duty was discharged simply by inserting the limitation in the corporate charter. Congress must have intended that the prohibition should be enforced. And since Puerto Rico was directed to make the restriction a matter of local concern at the time of the grant of the charter, it seems reasonable to conclude that Puerto Rico was likewise charged with the responsibility of enforcement.[*]

[*] The Act of July 30, 1886, c. 818, § 1, 24 Stat. 170, provided that the territorial legislature should not pass "local or special laws" in certain enumerated cases, including the

The respondent apparently contends that there is some principle forbidding Puerto Rico to enforce the laws of Congress and hence that no intention should be imputed to Congress to permit or require Puerto Rico to reserve a power to revoke respondent's charter for violation of the Joint Resolution. To enforce the 500-acre restriction, respondent asserts, Puerto Rico must incorporate such a prohibtion in a local law. The distinction between local enforcement of the prohibition in a Puerto Rican statute and the same prohibition in the Joint Resolution, it may be ob-

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granting of privileges or franchises to corporations. The States have exercised the power to forfeit corporate charters granted in violation of similar provisions in the State constitutions. *Kansas* v. *Lawrence Bridge Co.*, 22 Kan. 438; *Attorney General* v. *Perkins*, 73 Mich. 303; *People* v. *People's Gas Light & Coke Co.*, 205 Ill. 482. It is difficult to believe that Congress intended the territories to have a lesser authority (cf. *Puerto Rico* v. *Shell Co.*, 302 U. S. at 260-261), or that Congress intended to leave to Federal officers the enforcement of a duty imposed on the territorial legislatures.

The organic act of the Philippine Islands forbids any person, company, or corporation receiving any grant, franchise or concession from the Philippine government to employ the labor of persons held in involuntary servitude and provides for the forfeiture of such grant, franchise, or concession by any court of competent jurisdiction in proceedings instituted by any officer or citizen of the Philippines. Act of Aug. 29, 1916, c. 416, § 28, 39 Stat. 555, 48 U. S. C. Sec. 1152. The grant of authority to private persons to institute forfeiture proceedings and the unusual character of the remedy presumably explain the necessity of express provisions on the subject, but the statute is evidence of the propriety of local enforcement of a Federal prohibition.

served, is very slight. Both emanate from the same sovereign and enforcement of the local law by forfeiture would necessarily bar enforcement of the federal law by the federal governments. Cf. *Puerto Rico* v. *Shell Co.*, 302 U. S. at 264–266. The powers of control over the territorial government reserved by the United States in the Foraker Act and Organic Act of 1917 are sufficient to guard against the possibility that the local officials might fail to enforce the Joint Resolution. The President was empowered to appoint the territorial Governor and Attorney General by and with the advice of the Senate and to remove them at his pleasure (Secs. 17–18). The President's powers were continued in effect by the Organic Act of March 2, 1917 (c. 145, §§ 12–13, 39 Stat. 955, 956, 48 U. S. C. Secs. 775, 778). The Justices of the Supreme Court likewise have always been appointed by the President (Act of April 12, 1900, c. 191, § 33, 31 Stat. 84; Act of March 2, 1917, c. 145, § 40, 39 Stat. 965, 48 U. S. C. § 861), could be removed in such manner as the Congress may provide (*McAllister* v. *United States*, 141 U. S. 174) and, at least, in the absence of any restriction in the organic acts, by the President. Cf. *Parsons* v. *United States*, 167 U. S. 324; *Shurtleff* v. *United States*, 189 U. S. 311. The insular Supreme Court has not manifested and unwillingness to enforce the prohibition of the Joint Resolution, but if it did adequate provision has been made for review in the federal courts. Act of Feb. 13, 1925, c. 229, § 113, 43 Stat. 936, 942, U. S. C., Tit. 48, § 864; see Act

of April 12, 1900, c. 191, § 35, 31 Stat. 85; Act of March 2, 1917, c. 145, § 42, 39 Stat. 966.

There is no occasion in this case to preserve the insubstantial distinction between local enforcement of a local and federal law embodying an identical prohibition. Congress did not intend, we submit, that Puerto Rico should be required to enact a local law embodying the 500-acre restriction as a condition of enforcement of such a prohibition by the local government. If the Joint Resolution be viewed as a limitation on the powers of the local legislature, the necessary legal effect was to limit the powers of corporations organized under the laws of Puerto Rico without further legislation. If the Resolution be viewed as directly limiting the powers of such corporation, local legislation is likewise unnecessary for local enforcement. The 500-acre restriction of the Joint Resolution was a "special or local" law "designed to meet conditions peculiar to" Puerto Rico (cf. *Sumi* v. *Young*, 300 U. S. 251, 253) and intended to be enforced by local officials in the local courts. Cf. *Pridgeon* v. *United States*, 153 U. S. 48; *Summers* v. *United States*, 231 U. S. 92; *Boyd* v. *Great Western Coal & Coke Co.*, 189 Fed. 115 (C. C. E. D. Okla.); but cf. *Canary Oil Co.* v. *Standard Asphalt Co.*, 182 Fed. 663 (C. C. D. Kan.). The silence of the Joint Resolution as to the means of enforcement is to be viewed as evidencing the purpose of Congress to entrust the exercise of the power of revocation for violation to Puerto Rico, subject to the effective controls re-

served in the Foraker Act and the Organic Act of 1917 to insure compliance with the mandate of Congress.

The respondent relies on a dictum in the *Shell* case in which this Court apparently assumed that the territorial government could not enforce the Sherman Anti-Trust Act but only its local law on the same subject. See 302 U. S. 253, at 271. The dictum has no application here. The Sherman Act embodies a general policy of the federal government and is obviously a law of the United States within the meaning of Section 256 of the Judicial Code conferring exclusive jurisdiction on the courts of the United States in proceedings for the enforcement of the federal criminal laws. The express direction in the statute that the United States District Attorney bring proceedings for its enforcement manifested a purpose to reserve enforcement to the federal officials save as otherwise expressly provided. *Paine Lumber Co.* v. *Neal*, 244 U. S. 459.

The failure of Congress to provide any means of enforcement in this case argues that responsibility was entrusted to the territory and Section 256 of the Judicial Code seems clearly inapplicable. If the Joint Resolution be viewed as a limitation of the legislative powers of Puerto Rico, the limitation in respondent's corporate charter arising as a legal consequence is no more a "law of the United States" within the meaning of Section 256 than the corporate powers granted under the authority conferred by the Organic Act. If the Joint Resolution

be viewed as a direct limitation of respondent's corporate powers, it is nonetheless not a "law of the United States" within the meaning of Section 256. For it was enacted to meet local conditions and was intended to be locally enforced. Cf. *United States* v. *Pridgeon*, 153 U. S. 48; *Summers* v. *United States*, 231 U. S. 92; *Sumi* v. *Young*, 300 U. S. 251, 253.

Section 256, it may be conceded, embodies the policy that offenses against one sovereign should be enforced in its own courts by officials responsible to it, a policy reflected in the familiar doctrine of international law that the courts of one sovereign will not enforce a penalty arising under the laws of another state. See Mr. Justice Story, dissenting in *Houston* v. *Moore*, 5 Wheat. 1, 69.[9] But this policy furnishes little guide in determining whether the prohibition in respondent's charter arising as a legal consequence of or directly imposed by the Joint Resolution constitutes a law of the United States within the meaning of that section. The federal and local officers are both "under the control

[9] Even as between the United States and the several States, however, the question is one of the intention of Congress. The State courts and officials may enforce a penalty prescribed by a law of the United States if Congress so intends (*Houston* v. *Moore*, *supra*; cf. *Tennessee* v. *Davis*, 100 U. S. 257). See Warren, Federal Criminal Laws and State Courts, 38 Har. L. Rev. 545. And generally the enforcement of the laws of the United States is not the exclusive business of the Federal courts and officers unless the Congress so provides or intends. *Robb* v. *Connolly*, 111 U. S. 624; *Missouri ex rel. St. Louis, B. & M. R. Co.* v. *Taylor*, 266 U. S. 200; *Texas & N. O. R. Co.* v. *Brotherhood*, 281 U. S. 548.

of the same sovereignty" (*Puerto Rico* v. *Shell Co.*, *supra*, at 271), a control adequate to insure effective enforcement by the local officers and courts. And, as we have said, there are substantial considerations of policy and significant indications in the Joint Resolution which are persuasive of an intention that Puerto Rico should reserve the power to annul as an implied condition of its grant.

The other cases relied on by the court below are not in point. In *Territory* v. *Lockwood*, 3 Wall. 236, the territory was held to have no power to institute *quo warranto* proceedings against a Judge of the Supreme Court of the territory appointed by the President on relation of one claiming the office for himself. The prosecution of the information was in substance an effort to regulate the method of appointment and tenure of office fixed by the organic act itself (*Id.* p. 239; See Act of May 30, 1854, c. 59, Sec. 24, 10 Stat. 277, 285. In *Ank Bay Salmon Canning Co.* v. *United States*, 300 Fed 907 (C. C. A. 9), the Alaskan fishing regulation was in conflict with the express prohibition of the organic act.[10]

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[10] The decision in *Territory* v. *Lee*, 2 Mont. 124, may be justified on the ground that the statute of the Territory providing for the forfeiture to the State of mine claims held by aliens was in conflict with the Organic Act forbidding passage of laws interfering with primary disposal of soil (Id. p. 137). See *Christianson* v. *King County*, 239 U. S. 356, 367.

In *People* v. *Torres*, 28 P. R. 783, it was held that Section 256 of the Judicial Code conferred exclusive jurisdiction on

6. There is no merit in the respondent's suggestion that Acts Nos. 33 and 47 authorize the forfeiture of corporate charters on grounds which did not exist at the time the acts complained of were committed. The jurisdictional act of 1902 authorized the forfeiture of the charter and imposition of a penalty whenever a corporation was found to have exercised powers "not conferred by law," a jurisdiction which in terms is broad enough to include acts not authorized because in violation of the Joint Resolution. Moreover, the acts complained of are not only past offenses but are continuing. *People ex rel. Maloney* v. *Pullman's Palace Car Co.*, 175 Ill. 125. Finally, the power to forfeit the charter for violation of the Joint Resolution was an implied condition of the original grant. See *supra*, pp. 30–31.

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the Federal courts of proceedings to enforce the penalty prescribed by Section 2 of the Organic Act, forbidding the importation, manufacture, sale or gift of intoxicating drink or drug, and that the insular district attorney therefore could not institute proceedings for violation in the insular courts. The decision is of doubtful soundness. Section 2 expressly provided that the prohibition and penalty could be repealed by popular vote at a general election of Puerto Rico within five years after the approval of the Organic Act and it would seem reasonably clear that Congress thus intended the prohibition and penalty to have the same force and effect as a local law and to be enforced by the local government in the local courts. Cf. *Pridgeon* v. *United States*, *supra*.

CONCLUSION

For the foregoing reasons it is respectfully submitted that the judgment of the Circuit Court of Appeals should be reversed.

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Solicitor General.

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Special Assistant to the Attorney General.

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MARCH 1940.

APPENDIX

Pertinent Statutes

Act of May 1, 1900, No. 23, sec. 3; 31 Stat. 716; Act of March 2, 1917, ch. 145, sec. 39; 39 Stat. 964; U. S. C., Title 48, sec. 752.

> § 752. Special provisions in franchises; corporate real-estate holdings. * * *
>
> No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in anywise interested in any other corporation engaged in agriculture. Corporations, however, may loan funds upon real-estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable.

Act No. 30 of March 9, 1911, Comp. of Rev. Stats. and Codes of Puerto Rico, 1911, pp. 89–90; Private

Corporation Law, Puerto Rico, Article I, Section 3, paragraph 4 (Code of Commerce (1932)), p. 327, providing:

> SECTION 3. Every corporation has power:
> 4. To acquire and to hold in any legal manner and to transfer such property, both real and personal, as the purposes expressed in the articles of incorporation may require, and to mortgage such property with its franchises: *Provided, however,* That the power of any agricultural corporation organized under this act to hold real estate shall be subject to the prohibition contained in section three of the joint resolution of the Congress of the United States, of May first, nineteen hundred.

Act of March 1, 1902, Rev. Stats. and Codes of Porto Rico, 1902, Pars. 779–787, (pp. 282–284; Comp. of Rev. Stats. and Codes of 1911, Pars. 1319–1327, pp. 268–269, providing:

> ACT ESTABLISHING QUO WARRANTO PROCEEDINGS
>
> *Be it enacted by the Legislative Assembly of Porto Rico:*
>
> (1319) SECTION 1. (779) "Quo warranto" is a writ by which the People of Porto Rico commence an action to recover an office or franchise from the person or corporation in possession of same.
>
> (1320) SEC. 2. (780) That in case any person should usurp, or unlawfully hold or execute any public office or should unlawfully make use of any franchise, or likewise shall hold any office in any corporation created by and existing under the laws of Porto Rico, or any public officer shall have done, or suffered any act which, by the provisions

of the law, works a forfeiture of his office, or any association or number of persons shall act within Porto Rico as a corporation, without being legally incorporated, or any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General or any fiscal of the respective district courts, either of his own accord or at the instance of any individual relator, may present a petition to the district court of competent jurisdiction, for leave to file an information in the nature of "quo warranto" in the name of The People of Porto Rico and if such court shall be satisfied that there is probable ground for the proceeding, the court may grant the petition, and order the information to be filed, and process to issue.

Where it appears to the court that the several rights of divers parties to the same office or franchise may properly be determined on one petition, the court may give leave to join all such persons in the same petition, in order to try their respective rights to such office or franchise.

(1321) SEC. 3. (781) On the filing of such petition, the Secretary shall issue a summons returnable in ten days, but if any defendant resides out of Porto Rico, he may be served in the same manner and with like effect as in other suits.

(1322) SEC. 4. (782) Every defendant, who shall be summoned or served with a copy of the petition as required in this act, shall be held to plead to the petition on the return day of the summons, or when served with a copy of the information at the expira-

tion of the time as may be granted by the court, or in default thereof judgment may be taken nihil dixit.

(1323) SEC. 5. (783) The court in which any information, as aforesaid, is filed, may allow the relator or any defendant such convenient time to plead, reply, or demur, as it shall deem just and reasonable.

(1324) SEC. 6. (784) In case any person or corporation against whom any such petition is filed, or adjudged guilty, the court may give judgment of ouster against such person or corporation from the office or franchise, and fine such person or corporation for usurping, intruding to, or unlawfully holding and executing such office or franchise, and also give judgment in favor of the relator for the costs of the prosecutions: Provided, That instead of judgment of ouster from a franchise, the court may fine the person or corporation found guilty in any sum not exceeding five thousand dollars for each offense.

Whenever judgment is rendered in favor of any defendant such defendant shall recover from the relator his costs including a reasonable attorney's fee.

(1325) SEC. 7. (785) Appeals and writs of error may be taken and prosecuted in the same manner as in all other civil actions.

(1326) SEC. 8. (786) All laws, parts of laws, orders, or parts of orders contrary to this act be, and are hereby, repealed.

(1327) SEC. 9. (787) That this act shall take effect from and after its passage.

Act No. 33 of July 22, 1935, Laws of Puerto Rico, Special Session, 1935, p. 418, providing:

An Act to Confer upon the Supreme Court of Puerto Rico Exclusive Original Jurisdiction in Quo Warranto Proceedings That the Government of Puerto Rico May Institute for Violations of the Provisions of Section 752, Title 48, United States Code, and for Other Purposes.

Be it enacted by the Legislature of Puerto Rico:

SECTION 1. There is hereby conferred upon the Supreme Court of Puerto Rico exclusive original jurisdiction to take cognizance of all Quo Warranto proceedings that the Government of Puerto Rico may hereafter institute for violations of the provisions of Section 752, Title 48, United States Code, and for that purpose it is provided that the violation of said provisions shall constitute sufficient cause to institute a proceeding of the nature of Quo Warranto.

SECTION 2. All laws or parts of laws in conflict herewith are hereby repealed.

SECTION 3. This Act, being of an urgent character, shall take effect immediately after its approval.

Act No. 47 of August 7, 1935, Laws of Puerto Rico, Special Session, 1935, pp. 530–532, providing:

Be it enacted by the Legislature of Puerto Rico:

SECTION 1. Section 2 of An Act entitled "An Act establishing Quo Warranto proceedings," approved March 1, 1902, is hereby amended as follows:

"SECTION 2. In case any person should usurp, or unlawfully hold or execute any public office or should unlawfully make use of any franchise, or likewise shall hold any office in any corporation created by and ex-

isting under the laws of Puerto Rico, or any public officer shall have done or suffered any act which, by the provisions of the law, involves a forfeiture of his office, or any association or number of persons shall act within Puerto Rico as a corporation, without being legally incorporated, or any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General, or any prosecuting attorney of the respective district court, either on his own initiative or at the instance of another person, may file before any district court of Puerto Rico a petition for an information in the nature of Quo Warranto in the name of The People of Puerto Rico; or whenever any corporation, by itself or through any other subsidiary or affiliated entity or agent, exercises rights, performs acts, or makes contracts in violation of the express provisions of the Organic Act of Puerto Rico or of any of its statutes, the Attorney General or any district attorney, either on his own initiative or at the instance of another person, may file before the Supreme Court of Puerto Rico, a petition for an information in the nature of Quo Warranto in the name of The People of Puerto Rico; and if, from the allegations such court shall be satisfied that there is probable ground for the proceeding, the court may grant the petition and order the information accordingly. Where it appears to the court that the several rights of divers parties to the same office or franchise may properly be determined on the same proceeding, the court may give leave to join all such persons in the same petition in

order to try their respective rights to such office or franchise.'

"When any corporation by itself or through any other subsidiary of affiliated entity or agent is unlawfully holding, under any title, real estate in Puerto Rico, The People of Puerto Rico may, at its option, through the same proceedings, institute in its behalf the confiscation of such property, or the alienation thereof at public auction, within a term of not more than six months counting from the date on which final sentence is rendered.

"In every case, alienation or confiscation shall be through the corresponding indemnity as established in the law of eminent domain."

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SUPREME COURT OF THE UNITED STATES.

No. 582.—October Term, 1939.

The People of Puerto Rico, Petitioner, *vs.* Rubert Hermanos, Inc. } On Writ of Certiorari to the Circuit Court of Appeals for the First Circuit.

[March 25, 1940.]

Mr. Justice Frankfurter delivered the opinion of the Court.

The question here in controversy is a matter of great importance to Puerto Rico and involves the power of its legislature to enforce Congressional policies affecting the Island. We therefore brought the case here on a writ of certiorari, 309 U. S. —, to review a decision of the Circuit Court of Appeals for the First Circuit. 106 F. (2d) 754. That court had reversed the judgment of the Supreme Court of Puerto Rico, 53 P. R. 779 (Spanish edition) sustaining a proceeding in *quo warranto* brought against respondent.

The proceeding was initiated in the Supreme Court of Puerto Rico under jurisdiction conferred upon it by the local legislature. The substance of two measures, enacted in 1935, and set out below, authorized the Government of Puerto Rico to bring a *quo warranto* proceeding in its Supreme Court against any corporation violating federal law.[1] Accordingly, the Attorney General of the Island

[1] Act No. 33 of July 22, 1935, Laws of Puerto Rico, Special Session, 1935, p. 418, providing:

Section 1.—There is hereby conferred upon the Supreme Court of Puerto Rico exclusive original jurisdiction to take cognizance of all *Quo Warranto* proceedings that the Government of Puerto Rico may hereafter institute for violations of the provisions of Section 752, Title 48, United States Code, and for that purpose it is provided that the violation of said provisions shall constitute sufficient cause to institute a proceeding of the nature of *Quo Warranto*.

Section 2.—All laws or parts of laws in conflict herewith are hereby repealed.

Section 3.—This Act, being of an urgent character, shall take effect immediately after its approval.

Act No. 47 of August 7, 1935, Laws of Puerto Rico, Special Session, 1935, pp. 530-32, providing:

Section 1.—Section 2 of An Act entitled "An Act establishing Quo Warranto proceedings", approved March 1, 1902, is hereby amended as follows:

"Section 2.—In case any person should usurp, or unlawfully hold or execute any public office or should unlawfully make use of any franchise, or likewise shall hold any office in any corporation created by and existing under the laws

brought the present suit against respondent, a corporation organized in 1925 under Puerto Rico's corporation law. The gravamen of the suit was alleged defiance by respondent of the Congressional restriction imposed upon "every corporation authorized to engage in agriculture . . . to the ownership and control of not to exceed five hundred acres of land." This restriction, according to the complaint, embodied "the public policy of the People of Puerto Rico" first declared by Congress in its Joint Resolution of May 1, 1900, 31 Stat. 715, supplementing the Foraker Act of April 12, 1900, 31 Stat. 77.[2] This limitation upon the corporate ownership of land was continued when Congress in 1917 revised the constitutional framework of Puerto Rico's government in what is the existing Organic Act, § 39 of the Act of March 2, 1917, 39 Stat. 964 (48 U. S. C. § 752).

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of Puerto Rico, or any public officer shall have done or suffered any act which, by the provisions of the law, involves a forfeiture of his office, or any association or number of persons shall act within Puerto Rico as a corporation, without being legally incorporated, or any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General, or any prosecuting attorney of the respective district court, either on his own initiative or at the instance of another person, may file before any district court of Puerto Rico a petition for an information in the nature of *Quo Warranto* in the name of The People of Puerto Rico; or whenever any corporation, by itself or through any other subsidiary or affiliated entity or agent, exercises rights, performs acts, or makes contracts in violation of the express provisions of the Organic Act of Puerto Rico or of any of its statutes, the Attorney General or any district attorney, either on his own initiative or at the instance of another person, may file before the Supreme Court of Puerto Rico a petition for an information in the nature of *Quo Warranto* in the name of The People of Puerto Rico; and if from the allegations such court shall be satisfied that there is probable ground for the proceeding, the court may grant the petition and order the information accordingly. Where it appears to the court that the several rights of divers parties to the same office or franchise may properly be determined on the same proceeding, the court may give leave to join all such persons in the same petition, in order to try their respective rights to such office or franchise."

"When any corporation by itself or through any other subsidiary or affiliated entity or agent is unlawfully holding, under any title, real estate in Puerto Rico, the People of Puerto Rico may, at its option, through the same proceedings, institute [*sic*] in its behalf the confiscation of such property, or the alienation thereof at public auction, within a term of not more than six months counting from the date on which final sentence is rendered.

"In every case, alienation or confiscation shall be through the corresponding indemnity as established in the law of eminent domain."

[2] § 3 of the Joint Resolution provides:

No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purpose for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not

The present controversy derives from the fact that Congress affixed no direct consequences to disobedience of its land policy for Puerto Rico. The main issue presented here is whether Puerto Rico's Legislative Assembly has power to graft such consequences upon the Congressional prohibition. This was the issue as the Supreme Court of Puerto Rico conceived it, and we are not disposed too deal with it differently. It was suggested by the dissenting judge in the Court of Appeals that the Supreme Court's judgment may be supported by construing the 1935 legislation as a means of enforcing the local land policy—identic, to be sure, with that declared by Congress—embodied in the 1911 corporation law of Puerto Rico. To do so, however, would take us into niceties of pleading and of local law which were not canvassed by the insular court. Such a course would be peculiarly gratuitous when the issue which the local court in fact decided is easily resolved.

In the setting of the traditional relation between the broad outlines designed by Congress for the government of territories and the powers of local legislatures to move freely within those outlines, the difficulties conjured up against the view taken by the Puerto Rican court rapidly evaporate. The objections urged against it illustrate vividly the power of subtle argument to give an appearance of difficulty to what is relatively simple. The breadth of local autonomy reposed by Congress in the Legislative Assembly was elucidated too recently and too thoroughly in *Puerto Rico* v. *Shell Co.*, 302 U. S. 253, to call for repetition here. Suffice it to say that the opinion in that case underlined the fullness of scope which Congress gave to Puerto Rico when it provided by § 37 of the Organic Act of 1917 that "the legislative authority shall extend to all matters of a legislative character not locally inapplicable . . . ." 39 Stat. 964, 48 U. S. C. § 821. Drawing on the practice of Congress in its

to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture. Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable.

Whether the restriction operates directly as a limitation upon the powers of the corporation or merely as a limitation upon the legislative Assembly's power to confer corporate privileges, its effect is to render corporate land ownership in excess of the prescribed acreage unlawful. See the opinion of Attorney General Wickersham, 28 Op. A. G. 258, 260-261.

treatment of territories throughout our history, and assimilating that practice into the Puerto Rican situation, the Court concluded that "The grant of legislative power in respect of local matters contained in § 32 of the Foraker Act and continued in force by § 37 of the Organic Act of 1917 is as broad and comprehensive as language could make it." 302 U. S. at 261.

Surely nothing more immediately touches the local concern of Puerto Rico than legislation giving effect to the Congressional restriction on corporate land holdings. This policy was born of the special needs of a congested population largely dependent upon the land for its livelihood.[3] It was enunciated as soon as Congress became responsible for the welfare of the Island's people, was retained against vigorous attempts to modify it,[4] and was reaffirmed when Congress enlarged Puerto Rico's powers of self-government. Surely Congress meant its action to have significance beyond mere empty words. To treat the absence of a specific remedy for violation of the restriction as an implied bar against local enforcement measures is to impute to Congress a dog-in-the-manger attitude bordering on disingenuousness. We refuse to believe that Congress was bent on the elaborate futility of a *brutum fulmen*. What was said in another context, *Texas & N. O. R. Co. v. Ry. Clerks*, 281 U. S. 548, 569, is apposite here: "The definite prohibition which Congress inserted in the Act cannot therefore be overridden in the view that Congress intended it to be ignored. As the prohibition was appropriate to the aim of Congress, and is capable of enforcement, the conclusion must be that enforcement was contemplated." The suggestion that enforcement might come only through *quo warranto* proceedings by the Attorney General of the United States is equally feckless.

A much more rational explanation, consistent with the organic relation between Congress and the local government, is at hand. As the ultimate legislative guardian of the Island's welfare, Congress confined the legislature's discretion within the limits of the five

[3] See Gayer, Homan and James, The Sugar Economy of Puerto Rico, pp. 97-132; Diffie, Porto Rico: A Broken Pledge, pp. 45-88; Fleagle, Social Problems in Porto Rico, pp. 19-27; Hanson, Planning Problems and Activities in Puerto Rico (Report to National Resources Committee, 1936). Compare Clark, etc., Porto Rico and Its Problems, pp. 495-500, 628 *et seq.*

[4] See H. R. 23,000, 61st Cong.; H. Rep. No. 750, 61st Cong., 2d Sess.; S. Rep. No. 920, 61st Cong., 3d Sess.; 45 Cong. Rec. 6861 *et seq.*, 7220 *et seq.*, 7584 *et seq.*, 7604 *et seq.*, 8177 *et seq.*; 46 Cong. Rec. 2644.

hundred-acre restriction. How this policy was to be realized was for Puerto Rico to say. "Local authorities may ascertain facts and decide questions upon which depends appropriate exertion of the power much more conveniently than may the Congress." *Commissioner* v. *Havemeyer*, 296 U. S. 506, 515-16.

It is admitted, as indeed in view of the *Shell* case it could not be denied, that the remedy here pursued would have been available to the Legislative Assembly if that body had adopted the Congressional policy in a substantive statute of its own. But respondent contends that the same result cannot be achieved by investing the insular courts with jurisdiction directly to enforce the Congressional policy. Such useless indirection is compelled neither by the Organic Act nor by any general consideration underlying the distribution of power between Congress and the insular legislature. So long as the Legislative Assembly acts within the framework which Congress has set up it merely avails itself of the power conferred in § 37 of the Organic Act. It has done so here.

There remains for consideration an objection based on § 256 of the Judicial Code (28 U. S. C. § 371). That section vests in "the courts of the United States . . . exclusive of the courts of the several States" jurisdiction of all suits "for penalties and forfeitures incurred under the laws of the United States." Whether a law passed by Congress is a "law of the United States" depends on the meaning given to that phrase by its context. A law for the District of Columbia, though enacted by Congress, was held to be not a "law of the United States" within the meaning of § 250 of the Judicial Code. *Am. Security Co.* v. *Dist. of Columbia*, 224 U. S. 491. Likewise, we hold that § 37 of the Organic Act is not one of "the laws of the United States" within the meaning of § 256. Section 37 is peculiarly concerned with local policies calling for local enforcement from which local courts should not be excluded by a statutory provision plainly designed for the protection of policies having general application throughout the United States.

Other objections urged at the bar and in respondent's brief do not call for particular mention. On the only questions now before us, we think the Supreme Court of Puerto Rico acted within the

scope of power validly conferred upon it by the Legislative Assembly.[5] The judgment of the Circuit Court of Appeals must therefore be

Reversed.

Mr. Justice McREYNOLDS did not participate in the decision of this case.

A true copy.

Test:

Clerk, Supreme Court, U. S.

[5] The imposition of a fine by the Supreme Court of Puerto Rico, as a part of the power to grant relief ancillary to the main proceeding for forfeiture of the corporate privileges, was within the scope of authority validly conferred upon it by the 1935 legislation. Compare State of Illinois v. Illinois Cent. R. Co., 33 Fed. 721. See High, Extraordinary Legal Remedies, §§ 745-762.